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Approved For Release 2005/07/13 : CIA-RDP79M00467A001100180008-3

**Next 3 Page(s) In Document Exempt**

Approved For Release 2005/07/13 : CIA-RDP79M00467A001100180008-3

76-44771

Active Registry  
76-1163/A

17 MAR 1975

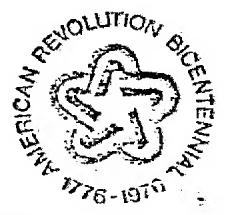
Honorable Edward H. Levi  
Attorney General  
Department of Justice  
Washington, D. C. 20530

Dear Mr. Levi:

I have received and reviewed your letter transmitting approved procedures required by Executive Order 11905 for specified foreign intelligence and counterintelligence activities. Components of the CIA have been studying the procedures to determine which, if any, areas were not fully coordinated between CIA and the Department of Justice in the limited time available prior to 1 March 1976. Thus far we have identified one such area.

The procedures for unconsented physical searches directed against United States persons abroad do not provide for emergency situations in which there may be insufficient time to obtain the Attorney General's prior approval for a search. Emergency situations of this nature would be rare, but might arise, for example, in counterintelligence cases abroad which involve documents or other tangible material critical to the national security or to the lives of CIA employees or intelligence agents. In such cases we may be faced with fast-moving developments in which there is not time for prior consultation with the Director of Central Intelligence, much less the Attorney General. In those circumstances our senior officers abroad should not be faced with the dilemma of choosing between a course of inaction that would be in keeping with your procedures under Executive Order 11905 and a course of action necessary to protect national security or an individual's life.

Consequently, I propose that the procedures with respect to this area be modified to permit senior Agency officials abroad, designated in writing by the Director of Central Intelligence, to authorize unconsented physical searches directed at United States persons abroad reasonably believed to be acting on behalf of a foreign power or terrorist group and to be in possession of documents or materials deemed critical to the national security or to the life of any CIA employee or intelligence agent, or directed at the property or



possessions of such persons. Procedures similar to those applicable to emergency electronic surveillance would apply, as well as the other restrictions and limitations in your procedures for the approval of unconsented physical searches. Proposed language to accomplish this modification is enclosed.

Sincerely,

*George Bush*

George Bush  
Director

Enclosure

OGC/GWC/lv/8Jull1976

Distribution:

Orig-Addressee

1-DCI

1-DDCI

1-ER via Exec Secretary

1-DDO

1-OGC

PROPOSED MODIFICATION TO PROCEDURES UNDER EXECUTIVE ORDER  
11905 FOR UNCONSENTED PHYSICAL SEARCHES DIRECTED AGAINST  
UNITED STATES PERSONS ABROAD

1. At the beginning of paragraph 3 of the current procedures, add the words "Except as hereinafter provided."

2. Add the following new paragraph 6:

In emergency situations involving documents or other tangible materials deemed critical to the national security or to the life of any CIA employee or intelligence agent, senior CIA officials abroad, designated in writing by the Director of Central Intelligence, may authorize a search to be directed against a United States person abroad reasonably believed to be acting on behalf of a foreign power or terrorist group and to be in possession of such documents or materials, or against the property or possessions of such a person. The Attorney General shall as soon as possible be notified of any emergency search, the circumstances surrounding its authorization, and the results thereof. If the Attorney General finds that there were insufficient grounds for the search, the Director of Central Intelligence shall cause the person against whom the search was directed to be notified unless the Attorney General finds compelling reasons for permitting an exception to this requirement. Searches conducted pursuant to any such emergency authorization are otherwise subject to the procedures outlined herein.

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SUBJECT: (Optional)

Proposed Modification of Attorney General's Procedures  
Under Executive Order 11905

FROM:

Anthony A. Lapham  
General Counsel

EXTENSION

NO.

OGC 76-3769

DATE

8 July 1976

25X1

TO: (Officer designation, room number, and building)

DATE

RECEIVED FORWARDER

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

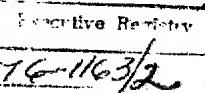
1.	Deputy Director for Operations	8 JUL 1976	1/8	<i>b</i>
2.	<del>DDCI</del> Director of Central Intelligence		7/12	<i>AM</i>
3.		7/13/76	<i>YBL</i>	<i>AM</i>
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CONCURRENCE.

SIGNATURE.

THE 15 10 1976

116-4491



OGC 76-3769  
9 July 1976

*Justice*

MEMORANDUM FOR: Director of Central Intelligence

FROM : Anthony A. Lapham  
General Counsel

SUBJECT : Proposed Modification of Attorney General's  
Procedures Under Executive Order 11905

1. It is recommended that you sign the attached letter to the Attorney General.

2. Executive Order 11905 provides that certain activities can only be undertaken by CIA in accordance with procedures approved by the Attorney General. Those provisions became effective on 1 March 1976, and prior to that deadline the General Counsel's Office (OGC) worked with the Attorney General's Staff on the procedures. In his letter transmitting the approved procedures, (TAB A), the Attorney General pointed out that time constraints had prevented full discussion between OGC and his office. He stated that you could therefore wish to consider the procedures interim in nature so that any necessary changes could be discussed.

3. The procedures for unconsented physical searches of United States persons abroad (TAB B) provide for such actions only upon the prior approval of the Attorney General. The Deputy Director for Operations objects to the lack of an emergency provision for those counterintelligence situations wherein the national security may make immediate action imperative. In addition, the assassination of Richard Welch in December 1975 and the growing international terrorist threat suggest that rapid actions may be required to deal with situations involving the protection of Agency employees overseas. In this regard the nature of their activities and in some cases non-official presence distinguish our personnel from other U.S. Government employees abroad and may preclude our reliance on local authorities for assistance or protection.

*extra copy*

*Justice*

Consequently, we have drafted a proposed modification to the Attorney General's procedures on this subject (TAB C) which provides for an emergency procedure in these two limited circumstances.

4. The proposed modification includes a notification provision which the Office of Legal Counsel, Department of Justice felt would make the modification acceptable to the Attorney General. The provision provides for notification to the individual who is the subject of a search if the Attorney General subsequently finds there were insufficient grounds for the search. An exception to notification can be made if the DCI convinces the Attorney General that there are compelling reasons for dispensing with the requirement. Such a provision will indicate the care with which such emergency authority would be exercised.



Anthony A. Lapham

25X1

Attachments

CONCUR:

William W. Wells  
Deputy Director for Operations

7/8/76

Date

OGC/GWC/lv/9Jul1976  
Distribution:  
Orig - Addressee  
1-DDCI  
1-ER via Exec Secretary  
1-DDO  
1-OGC

Executive Registry  
76-11631

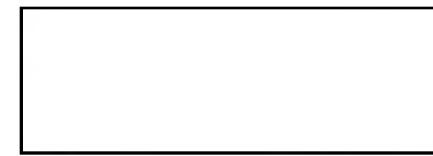
ER (file)

OGC 76-1643  
1 April 1976

MEMORANDUM FOR THE RECORD

SUBJECT: Downgrading of "Procedures Under Executive Order 11905  
for the Conduct of Electronic Surveillance by CIA"

Pursuant to the Agency's request, subject procedures were  
downgraded to Secret by Antonin Scalia, Assistant Attorney General,  
Office of Legal Counsel, on 29 March 1976.



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Assistant General Counsel  
General Law Division

Distribution:

DCI (Executive Secretary) ✓  
DDS&T  
DDI  
DDA  
DDO  
IC  
OLC  
IG

25X1 SC/DCI [redacted]

OSR - Mr. Lehman

25X1 ADDS&T Attn: [redacted]

*Justice*

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REF ID: A67A001100180008-3  
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SECRET

## EXECUTIVE SECRETARIAT

## Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
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2	DDCI		X		
3	S/MC				
4	DDS&T	X			
5	DDI	X			
6	DDA	X			
7	DDO	X			
8	D/DCI/IC	X			
9	D/DCI/NIO				
10	GC		X		
11	LC	X			
12	IG	X			
13	Compt				
14	D/Pers				
15	D/S				
16	DTR				
17	Asst/DCI				
18	AO/DCI				
19	SC/DCI		X		
20	Dick Lehman		X		
21					
22					
	SUSPENSE		Date		

## Remarks:

Per John Warner's request at today's Morning Meeting, please let him know if you have any problems with the attached.

Executive Secretary  
1 March 1976

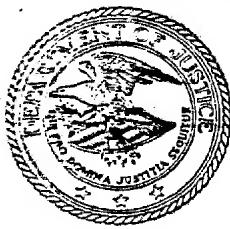
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Executive Registry
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76-1163



Office of the Attorney General

Washington, D.C. 20530

XR 76-6887/3

Rec'd 1 Mar 76

The Honorable  
George Bush  
Director  
Central Intelligence Agency  
Washington, D.C. 20505

Dear Mr. Bush:

The General Counsel's office of the Central Intelligence Agency submitted to the Department of Justice a draft of procedures to deal with those foreign intelligence and counterintelligence activities requiring my approval under Executive Order 11905, which has an effective date of March 1, 1976. We reviewed those procedures and have made modifications. By this letter I approve the procedures, as modified, set forth in the enclosures entitled as follows: (1) CIA Counterintelligence Activities in the United States; (2) Procedures Under Executive Order 11905 for Unconsented Physical Searches Directed Against United States Persons Abroad; (3) Procedures Under Executive Order 11905 for the Conduct of Electronic Surveillance by CIA.

Because of the time constraints, we have not been able to discuss all of our modifications with your General Counsel's office. You may therefore wish to consider these procedures as interim in nature, so that we may discuss changes which may be necessary. Indeed, my approval of the procedures set forth in Section 6 of enclosure (3) above must be on an interim basis, since new guidelines are being drafted in the Department to supplement USSID-18, which I will seek to apply to CIA operations as well, to the extent feasible.

Sincerely,

*Edward H. Levi*  
Edward H. Levi  
Attorney General

Enclosures

*[Handwritten signature of Edward H. Levi]*

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PROCEDURES UNDER EXECUTIVE ORDER 11905  
FOR UNCONSENTED PHYSICAL SEARCHES  
DIRECTED AGAINST UNITED STATES PERSONS ABROAD

1. The phrase "United States persons" means United States citizens, aliens admitted to the United States for permanent residence, and corporations or other organizations incorporated or organized in the United States.
2. The phrase "unconsented physical search" means a physical intrusion upon or search of a person or the person's property or possessions for purposes other than placing an electronic surveillance device, without the knowledge or consent of the person or, in the case of property or possessions, of another individual entitled to exercise control thereover.
3. No unconsented physical searches of the persons or property or possessions of United States persons will be conducted abroad by CIA without the prior approval of the Attorney General. Request for such approval will be made by the DCI or Deputy DCI, if the DCI delegates this authority to him, and shall present all the facts and circumstances justifying the unconsented physical search. These shall include the facts and circumstances supporting the requester's belief that the United States person at whom or at whose property or possessions the search is directed is

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8	DDO		X		
9	D/DCI/NIO				
10	GC		X		
11	LC				
12	IG				
13	Compt				
14	D/Pers				
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16	DTR				
17	Asst/DCI				
18	AO/DCI				
19	C/IPS				
20		CIA	X		
21	SIGINT Officer				
22					
	SUSPENSE		Date		

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 Remarks: Mr. Bush: Attached is the paper you instructed  
 the Duty Officer to open on Saturday afternoon. Act-  
 ually [ ] s and I were looking for it on  
 Friday. Apparently it got stuck in the White House  
 Ops Center. [ ] will pre-  
 cipitate the necessary action, and the latter has in-  
 dicated the above info distribution. [ ]

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Executive Secretary  
 19 July 1976  
 Date

3437 (5-76)

E-21  
 7/19/76 (RECORDED)

~~Approved For Release 2005/07/13 : CIA-RDP79M00467A001100180008-3~~

This was received from General Scowcroft for the Director on Saturday afternoon. I talked with the Director at 1730 Saturday and he asked me to open the envelope and tell him the subject matter. He then instructed me to make copies for [redacted] and Mr. Knoche. The receipt for the memo is enclosed in the DCI's copy.

I am sending all three to you for dissemination to [redacted], Mr. Knoche, and the Director

~~Approved For Release 2005/07/13 : CIA-RDP79M00467A001100180008-3~~

Date July 17, 1976

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TO:		ACTION	INFO	DATE	INITIAL
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7	DDA				
8	DDO		X		
9	D/DCI/NIO				
10	GC		X		
11	LC				
12	IG				
13	Compt				
14	D/Pers				
15	D/S				
16	DTR				
17	Asst/DCI				
18	AO/DCI				
19	C/IPS				
20		CIA	X		
21	SIGINT Officer				
22					
	SUSPENSE		Date		

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Remarks: Mr. Bush: Attached is the paper you instructed the Duty Officer to open on Saturday afternoon. Actually [redacted] and I were looking for it on Friday. Apparently it got stuck in the White House Ops Center. [redacted] will precipitate the necessary action, and the latter has indicated the above info distribution.

Executive Secretary  
19 July 1976

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